

OLC 76 1934

9 JUL 1976

MEMORANDUM FOR: Legislative Counsel
 ATTENTION :
 FROM : Robert W. Gambino
 Director of Security
 VIA : Deputy Director for Administration
 SUBJECT : Request from Congresswoman Bella S. Abzug
 (Records Disposal)

1. Reference is made to your request of 29 June 1976 which forwards a 10 June 1976 letter from Congresswoman Bella S. Abzug which requests information pertaining to the maintenance and disposal of Agency records. Reference is further made to discussions with you concerning this request during which you indicated that the Office of Security need only respond to paragraphs three and four of Congresswoman Abzug's letter.

2. Paragraph three asks "What restrictions, if any, are imposed on the removal by an agency official of copies of government documents or other information generated by that official?" Forwarded herewith is a copy of Headquarters Regulation which concerns the "Care and Use of Official Data" and would appear to respond to this question. It should be noted that this regulation does not make a distinction between "agency civil servants" and "Presidential appointees." In this regard, it does grant to the Director of Central Intelligence the authority to authorize certain officials to release and/or remove official data from the Agency. Although the attached copy of is classified "confidential," this Office would have no objection to your excerpting appropriate portions in preparing your response to Congresswoman Abzug.

3. Paragraph four concerns instances "in the last ten years" where administrative penalties and/or prosecutions have been levied on current or former Agency employees for the "unauthorized taking or destruction of government records."

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This Office is aware of one case which definitely falls in this category. In July 1966 an Agency contract employee was accidentally discovered to have a large amount of classified material in his residence. A Board of Inquiry, composed of senior Agency officials, was convened. This Board concluded that classified material was in the employee's residence, that the employee was not authorized to retain classified material in his residence, and that the presence there of classified material was in contravention of specific Agency regulations. The Board's recommendation that the employee's contract be terminated was approved by the Director of Central Intelligence and the employee was dismissed on 15 September 1966.

4. We are also aware of a second and more recent case in this category. This incident occurred in 1975 and involved a DDS&T/Office of Technical Service employee. The Office of Technical Service has been requested to provide a direct response to your Office concerning the details of this case, since that Office has the most complete record of the exact circumstances involved.

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ROBERT W. GAMBINO

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TERMINATION SECRECY AGREEMENT

1. I, _____, am about to terminate my association with the Central Intelligence Agency. I realize that, by virtue of my duties with that agency, I have been the recipient of information and intelligence that concern the present and future security of the United States of America.
2. I have read and understand the provisions of the espionage laws (sections 793, 794, and 798 of Title 18, United States Code) and I am aware that unauthorized disclosure of classified information relating to the national defense may subject me to prosecution for violation of those laws. Further, I am aware that the National Security Act of 1947 specifically requires the protection of intelligence sources and methods from unauthorized disclosure.
3. I will never divulge, publish, or reveal by writing, word, conduct, or otherwise any classified information, or any information concerning intelligence or CIA that has not been made public by CIA, to any unauthorized person including, but not limited to, any future governmental or private employer or official without the express written consent of the Director of Central Intelligence or his representative.
4. I do not now have in my possession, custody, or control, nor am I retaining or taking away from CIA, any classified or unclassified documents or materials that are the property of CIA, or the custodial responsibility of CIA, having come into my possession as a result of my duties with CIA or otherwise.
5. I have been invited to submit in writing any monetary claims that I may have against CIA or the United States Government that may in any way necessitate the disclosure of information described herein. I have been advised that any such claims will receive full legal consideration. In the event, however, that I am not satisfied with the decisions of CIA concerning any present or future claims I may submit, I will not take any action to obtain satisfaction without prior written notice to CIA, and then only in accordance with such security advice as CIA will furnish me.
6. During my exit processing and during my period of employment with the Central Intelligence Agency, I have been given an opportunity to report all information about the Agency, its personnel, and its operation that I consider should receive official cognizance. Therefore, I am not aware of any information that it is my duty, in the national interest or otherwise, to disclose to the Central Intelligence Agency, nor am I aware of any violations or breaches of security that I have not officially reported, except as set forth on attachments to this sheet.
7. I will report without delay to the appropriate CIA officials, or the Federal Bureau of Investigation, any incident wherein an attempt is made by any unauthorized person to solicit classified information from me.
8. I have been advised that in the event I am called upon by the properly constituted authorities to testify or provide information that I am pledged hereby not to disclose, I will notify CIA immediately; I will also advise said authorities of my secrecy commitments to the United States Government, and I will request that my obligation to testify be established before I am required to do so.

9. I have read and understand the contents of this agreement and voluntarily affix my signature hereto with the full knowledge that it was executed for the mutual benefit of myself and the United States Government. I have read section 1001 of Title 18, United States Code and am aware that the making of a false statement herein or otherwise may be punished as a felony. With this understanding, I state that the information I have given is, to the best of my knowledge and belief, correct and complete, and agree that it may be used by the Government in carrying out its duty to protect the security of information that affects the national defense of the United States.

10. I understand that this agreement will be retained in the files of the Central Intelligence Agency for its future use or for reference by me at any time in the future that I may be requested or ordered to testify or disclose any of the matters included within the scope of this agreement.

Signature - Date

WITNESS:

Signature - Date

EXCERPTS FROM TITLE 18, UNITED STATES CODE

Section 793. *Gathering, Transmitting or Losing Defense Information*

- (a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense; or
- (b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or
- (c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or
- (d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or
- (e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or
- (f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of his trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.
- (g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(b) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

Section 798. *Disclosure of Classified Information*

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

- (1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or
- (2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or
- (3) concerning the communication intelligence activities of the United States or any foreign government; or
- (4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term “classified information” means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms “code,” “cipher,” and “cryptographic system” include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term “foreign government” includes in its meaning any person or persons acting or purporting to act for or in behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term “communication intelligence” means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term “unauthorized person” means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

Section 1001. *Statements or Entries Generally*

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device, a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.